

### **REMARKS/ARGUMENTS**

Claims 1-3, 9-10, 12-16, 18, 20, and 22-31 are currently pending in the above-referenced application. Entry and consideration of this paper is respectfully requested.

#### **SECTION 101 REJECTION**

Claims 26-31 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicant respectfully traverses. Claims 26-31 are directed to a computer-readable medium, and are statutory under In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994). *See also* MPEP 2106.01. A minor amendment to the preamble only of claim 26 has been made as a matter of clarification. This amendment is a matter of form, is non-substantive, does not raise new issues, places the claims in better condition for appeal, and places the claims in condition for allowance. Therefore, the amendment must be entered.

In addition, a claimed process is patent-eligible under 35 U.S.C. 101, *inter alia*, if it is tied to a particular machine or apparatus. In re Bilski, Slip Op. 2007-1130 at 10 (2008). See also Parker v. Flook, 437 U.S. 584, 593 (1978) (“the Court has ... recognized a process as within the statutory definition when ... was tied to a particular apparatus”). A “particular machine” may comprise one or more physical computing devices. A “particular machine” may comprise one or more physical computing devices which perform a method. See, *e.g.* Ex Parte Wasynczuk, BPAI Opinion 2008-1496 at 22, holding that a first simulating step is performed on “a first physical computing device” and a second simulating step performed on “a second physical computing device” is a “a particular apparatus” to which the process is tied.

In view of the above, it is respectfully submitted that the rejection under 35 U.S.C. 101 is improper and must be withdrawn.

**REJECTION UNDER 35 U.S.C. 112**

Claims 12-16, 18 and 20-22 stand rejected under 35 U.S.C. 112 because the term “the client” in claim 12 lacks antecedent basis. The term “the client” has been amended to read “a client” accordingly. This amendment is a matter of form, is non-substantive, does not raise new issues, places the claims in better condition for appeal, and places the claims in condition for allowance. Therefore, the amendment must be entered.

**REJECTIONS UNDER 35 U.S.C. §103**

Claims 1-3, 9-1012-16, 18, 20, and 22-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,463,345 to Peachey-Kountz et al. (“Peachy-Kountz”) in view of U.S. Patent No. 6,341,271 to Salvo et al. (“Salvo”) and Examiner’s Official Notice. The rejections, including the official notice, are respectfully traversed. Peachy-Kountz, Salvo and the notice taken do not teach all elements of Applicant’s invention as claimed.

Each of independent claims 1, 12, 23, and 26 incorporates language referring to placing inventory on reserve as an order is placed. The Examiner asserts that column 6, lines 29-40 of Peachy-Kountz discloses placing inventory on reserve. While it is conceded that the same term, “reserve”, is used in both the instant claims and in Peachy-Kountz, the definition of those terms is different. Peachy-Kountz discloses processing an order and, where the current inventory is insufficient to meet the order, examining the supply chain to identify when portions thereof could be used to fill the order, and reserving portions of the anticipated supply such that the order can be fulfilled.

Systems such as that disclosed in Peachy-Kountz are advantageous in scenarios where there is sufficient inventory/sufficiently low demand at the customer level such that the delayed order fulfillment that results therefrom will not adversely impact the customer. However, many industries cannot afford to have such delays. By way of example, without limitation, in the catering/food service industry, a customer may request that a number of bottles of a specific vintage of wine be available for a dinner party or other event. Given that the industry is highly consumer-based, which in turn means that customer satisfaction plays a

large part in referrals and repeat business, it is especially important for the caterers or restaurateurs to meet their consumer's expectations.

As the previously-filed Declaration of Garrison Reeves attests, there has been a long-felt need for a system that allows consumer-based businesses to improve customer satisfaction by providing accurate inventory availability information. The claimed invention improves customer satisfaction by providing real-timed inventory information to salespeople and other professionals, such that they can accurately advise customers as to whether or not they will be able to meet the exact demand. As the Declaration attests, implementations of the claimed invention have met with significant commercial success.

Still further, because of the ability to "reserve" during an order process in accordance with the invention, the salesperson can give the customer unprecedented assurance that the order will be fulfilled. The salesperson no longer has to contend with concerns about orders taken by others for the same inventory, because the inventory is reserved as the order is being placed. This has at least two advantages - first, the selling salesperson and his/her customer can be assured that the order will be fulfilled. Second, because the inventory changes are displayed in real-time, any other salespeople and their customers can be assured that they are viewing accurate, up-to-date information upon which decisions can be based. Peachy-Kountz does not teach or suggest marking inventory items as "reserved" as an order is placed, as used in the specification and as recited in the claims. It is further asserted that Salvo, either alone or in combination with Peachy-Kountz, does not remedy the deficiency. Thus, it is respectfully asserted that all elements of the claimed invention are not present in the prior art, and Applicant respectfully requests that the Examiner withdraw the rejection.

### **CONCLUSION**

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, she is courteously requested to contact applicant's undersigned representative.

RESPONSE  
Examiner: GORT, Elaine L.

Serial No. 09/769,294  
Atty. Docket No.: 053881.010100

**AUTHORIZATION**

The Commissioner is authorized to charge any additional fees associated with this filing, or credit any overpayment to Deposit Account No. **50-0653**. If an extension of time is required, this should be considered a petition therefor. If the fees associated with a Request for Continued Examination are filed herewith, this should be considered a petition therefor.

Respectfully submitted,

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